Supreme Court, U.S.
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No. 06-253

In The

# Supreme Court of the United States

Stephen Carroll Collier,
*Petitioner,*

*v.*

Jim Pruett, individually,
John Tam, individually,
John Williamson, individually,
Susan Meredith, individually,
General Communications, Inc., and
Wells Fargo Bank,

*Respondents.*

**On Petition For A Writ Of Certiorari To The United States Court of Appeals For the Ninth Circuit**

## PETITION FOR WRIT OF CERTIORARI

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## Questions Presented

Petitioner is a native-born citizen of one of the several States with fundamental rights and liberties guaranteed under Article IV, Section 2, Clause 1 of the Constitution of the United States.

1. Whether agency employees can impersonate "Officers of the United States," without having an Office with Powers and Duties created and appointment as mandated arising under Article II, Section 2, Clause 2, to remove a Case using 28 U.S.C. §1442(a)(1) from the jurisdiction of one of the several States that has cognizance of the subject matter and all parties to a federal court that is denied jurisdiction by legislative Power and is therefore without the whole judicial Power arising under Article III, section 1 & section 2.

2. Can a federal court, exercising either legislative or constitutional Powers, apply the status of "taxpayer" upon a citizen of one of the several States to effectively abrogate fundamental rights when no such determination has been made by the executive branch and none is in effect?

3. Can Congress deny and disparage any citizen of the several States his fundamental rights by enacting statutes for citizens of the United States and require same to make application for a Social Security Account Number as enacted under 49 Stat 620, wherein rights are created against the United States whereby Congress is under no obligation to provide a remedy or access to the courts?

## Parties to the Proceedings

Representing The Individually Named Respondents:
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## Opinions Below

The December 21, 2005 Memorandum of the Circuit Court of Appeals (App. 1) is unpublished. The March 17, 2006 Order of the Circuit Court of Appeals (App. 3) denied a rehearing *en banc*. On June 19, 2006, the Office of the Clerk for the Supreme Court extended the time for filing the petition for a writ of certiorari by August 18, 2006. (App. 4) The Order of the district court (App. 5) was filed on May 19, 2004.

## Jurisdiction

This Court has jurisdiction over a Petition for a Writ of Certiorari arising under the Constitution of the United States, Article III, section 1 and section 2, and Article IV, section 2, clause 1 and codified by 28 U.S.C. §1331, 28 U.S.C. §1254(1) and Rules 13.1 and 13.3 of this Court, as the initial jurisdiction of the Case was filed and pled by a citizen of one of the several States invoking the whole judicial Power of one of the several States. The Case was removed against the Petitioner's strong objections who then invoked the whole judicial Power of the United States arising under Article III in all Cases in Law and Equity under the Authority of the United States in the several States and not as a citizen of the United States.

## Relevant Constitutional, Statutory, And Regulatory Provisions

Constitutional provisions are reproduced in the Appendix at App. 8. Statutory and regulatory provisions are reproduced in the Appendix at App. 9.

## Statement of the Case

A citizen of one of the several States with fundamental rights brought suit in one of the several States for protections of the Privileges *and* Immunities guaranteed by the Constitution of the United States. Fundamental rights of citizens of the several States are protected under the

Privileges and Immunities Clause arising under Article IV, section 2, clause 1. Petitioner asks the court to address whether any court can deny the status of citizenship of the *People* that is claimed by oath of allegiance and usurp it with a different citizenship status that is in conflict with that as described by Article IV, section 2, clause 1.

The Petitioner's Complaint alleged that agency ministerial officers acted individually and outside the scope of their authority by not adhering to the substantive regulation rules and limitations under the statutory authority mandated by Congress for all agencies and their employees. Ministerial employees executed notices based upon a taxpayer status determination that was not in effect and without application to the Petitioner. Not one of the ministerial employees exercises any executive Power of the United States arising under Article 2, section 2, clause 2, and none has an Office created by Law with Duties and Powers to exercise constitutional executive Power. Corporate citizens honored said nonexistent taxpayer status determination as addressed on the federal notices and seized private property without court judgment in direct conflict with *Grupo Mexicano v. Alliance Bond Fund*, 527 U.S. 308, 321-330 and *Fuentes v. Shevin*, 407 U.S. 67, 95. No evidentiary facts or essential facts, whatsoever, were produced by the Respondents to deny or rebut the allegations.

The Department of Justice ("DoJ"), an executive agency under 5 U.S.C. §§101 and 105, entered the Case representing all the individually named agency employees, as defined by 26 U.S.C. §7804, and transferred the Case to the jurisdiction of the United States District Court ("USDC") under the pretense of exercising the sovereign immunity of the United States for the protection of it's "Officers of the United States or inferior Officers of the United States" (hereafter "Officers of the U.S."). Petitioner strongly protested the removal and submitted evidentiary and essential facts that the agency employees had no Office created by Congress with Powers and Duties prescribe by Law and were

not granted any sovereign executive Power under Article II, section 2, clause 2. Additionally, the Petitioner entered into the court record irrefutable evidentiary facts that showed the DoJ was without authority to represent the individually named agency employees or remove the Case to federal jurisdiction, which remains as true and has not been controverted by any party. The federal circuit brushed aside these essential facts in the Memorandum to be in direct conflict with the Constitution of the United States.

Agencies are excluded from statutory power to remove or transfer Cases from state jurisdiction and Congress has expressly limited removal power to individual officers only, see *International Primate Protection League v. Administrators of Tulane Educational Fund*, 500 U.S. 72, 73-74, 79-89. When there is any doubt of the right to transfer a case to federal court, it must be rejected in the first instance, the party removing the suit has the burden of proof by actually proving the facts to support the jurisdiction or the suit must be remanded, and facts by competent proof must appear on the record if the removal is challenged. This is held in the adjudged decision of *Matheson v. Progressive Specialty Insurance Co.*, 375 F.3d 1089, 1090 (9thCir. 2003). See also *United Computer Systems, Inc.*, 298 F.3d 756, 763 (9thCir. 2002); *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-67 (9thCircuit 1992). The Petitioner asks the court to correct the decision by the USDC and affirmed by the circuit court that agencies can remove Cases without evidentiary proof or ultimate facts, being in direct conflict with *International Primate, Matheson, United Computer, Gaus, supra.*.

Both the USDC and 9th Circuit Court of Appeals ("9th Cir.") (collectively the "federal circuit") assumed the Petitioner's citizenship status to be different than his birthright of a citizen of one of the several States. Petitioner's class of citizenship is an evidentiary fact in the court record and yet the federal circuit ignored its significance and replaced it with another class type in order to permit the removal and transfer of the Case by the DoJ for

impostors who were not Officers of the U.S. under 28 U.S.C. §1442(a)(1) and without the *original* sovereign jurisdiction under 28 U.S.C. §1441(a). It was necessary for the federal circuit to create such a pretense, i.e., assumption of the citizenship status of "citizen of the U.S.," to deny protections under the Constitution to a citizen of the United States. The disabling effects of such a citizenship status are discussed *infra.*. Once the removal was complete, the federal jurisdiction dismissed for lack of jurisdiction with no remand. The federal circuit considered the Officer of the United States argument, the essential element of executive public Officers to have a public Office and the ability of the Petitioner to have access to the whole judicial Power of the United States as lacking merit. It may lack merit as far as a citizen of the U.S. is concerned but it has been well settled by this court that such fundamental rights are to be secured by the Constitution for citizens of one of the several States. The question becomes, can the courts deny a natural born native of one of the several States his right to citizenship as guaranteed by Article IV, sec. 2, cl. 1? The Petitioner asks the court to review and correct the errors of the federal circuit that have supplanted the Petitioner's fundam tal rights he has affirmed by oath with statutorily created rights.

Additionally, the federal circuit is not empowered to determine if the Petitioner is a "taxpayer" as the taxpayer status determination can only be preformed by Internal Revenue Service ("IRS") personnel under the self-imposed administrative regulation of 26 CFR §601.201 with the statutory authority of 5 U.S.C. §§ 301 & 552. No ultimate fact of the Petitioner's taxpayer status has been determined or produced because it is non-existent. Yet the federal circuit has relied on taxpayer-based case law for application of ultimate facts against the Petitioner when he does not even meet the qualifications to be a "taxpayer." Without evidence to support the presumption that Petitioner is a "taxpayer" as posited under §601.201, it surely must fail unless the federal circuit exercises an administrative jurisdicition other than the

Article III judicial Power of the United States to sanction taxpayer status against the Petitioner, see *Balzac v. People of Porto Rico*, 258 U.S. 298, 312 (1922). The evidentiary fact of the Petitioner's oath of allegiance has been denied by the federal circuit in violation of his inalienable rights protected under Article IV, section 2, clause 1.

Petitioner asks this Court to correct the federal circuit's determinations of ultimate fact that allowed agency employees to exercise the grant of sovereign immunity with no grant of executive Power of the United States arising under Article II, section 2, clause 2 and without a public Office; allowed a non-existent taxpayer status determination to be used against the Petitioner that is not in the record; and, allowed a predetermined citizenship status to be used that is different and in direct conflict with the Petitioner's guaranteed birthright as a citizen of the United States of America, which he has affirmed by oath.

**Citizen of one of the several States**

The Petitioner is an "American citizen" having the right of Election to be a citizen born upon the Land in the territorial boundaries of one of the several States, which was firmly established for those who were born *post natus* of the Declaration of Independence of July 4, 1776. See *Inglis v. Trustees of Sailor's Snug Harbour*, 28 U.S. 99, 141-42 (1830). Citizens are either native-born or naturalized as "citizens of the United States of America." When the citizens of the United States of America that ordained and established the government of the United States defined its powers by a Constitution, they created a government consisting of a political system that was twofold: a government of each of the several States and a government of the United States. The independent governments of the separate States brought forth **privileges *and* immunities** from the Articles of Confederation for the protections of their citizens' fundamental rights, *U.S. v. Cruikshank*, 92 U.S. 542, 549-50 (1875). The privileges *and* immunities protected by

the Constitution were not rights granted to the people by the United States, but secured in said instrument with few exceptions. They are *obligations on the part of the States to fulfill* for the protection of its citizens, see *Cruikshank* at 551. One of the limitations on the power of the state "is that it may not impose conditions which require the relinquishment of constitutional rights." See *Frost v. Railroad Commission*, 271 U.S. 583, 594 (1926).

Petitioner's citizenship status is an essential fact of this Case as evidenced by the affidavit submitted with the original Complaint, see App. 11. Evidence, if of a character admissible in a court of justice, overcomes the presumption of citizenship raised by residence as to the fact of citizenship, see *Urtetiqui v. D'Arbel*, 34 U.S. 692, 699 (1835). The ultimate facts of the Petitioner's standing and citizenship status has never been controverted.

The oath of allegiance "... it is said cannot be dissolved by either party without the concurrence of the other. It is the tie which binds the governed to their government, in return for the protection which the government affords them." *See Inglis at 124-25.* This principle has not been altered and is still in effect today.

In *Dunn v. Blumstein*, 405 U.S. 330, 346 (1972), it was held that the State relies on the oath-swearing system to establish qualifications and the Petitioner has not released or attempted to change by Election his allegiance to one of the several States and has not been informed by any such State that the revocation of state citizenship is under consideration. A citizen must, by some act, distinctly and knowingly renounce his allegiance in order to divest himself of citizenship, see *Carlisle v. U.S.*, 83 U.S. 147, 154 (1872).

The right of citizenship *never descends in the legal sense,* being a quote attributed to Mr. Binney, published in the second edition of a paper on the Alienigenae of the United States on December 1, 1853, from the holding of *U.S. v. Wong Kim Ark*, 169 U.S. 649, 665 (1898). Petitioner's

right of citizenship is secured in the Constitution under Article IV, sec. 2, cl. 1.

There is *only one* legislative Power granted to Congress arising under the Constitution of the United States regarding citizenship and it is posited in Article I, Section 8, Clause 4, as "To establish an uniform Rule of Naturalization." This is evidenced and codified in 8 U.S.C. §1449 stating that the incoming alien "was entitled to be admitted a ***citizen of the United States of America***, thereupon ordered that the applicant be admitted as a citizen of the United States of America" (emphasis added). The Naturalization Certificate currently issued today is granted to the newly naturalized man or woman as a "citizen of the United States of America" (App. 13).

An American citizen and "citizen of the United States of America" was used in international citizen issues as evidenced by 1 Stat 477, approved on May 28, 1798, with said affidavit therein used. (App. 14)

Additionally, elected members of the Senate are required under 5 U.S.C. §3331 to take an Oath under the status of "citizen of the United States of America," see App. 16, and not under the status of "citizen of the United States" or "U.S. Citizen."

There is little doubt that a "citizen of the United States of America" is a citizen of any one of the several States, and upon being domiciled in any one of the several States, he is then clothed with the inherent and unalienable rights secured in the constitution of that particular state being one of the several States.

The legislative Power of Congress regarding a citizen of the United States of America is pronounced in *Osborn v. Bank of the United States*, 22 U.S. 738, 827 (1824), to wit:

> A naturalized citizen is indeed made a citizen under an act of Congress, but the act does not proceed to give, ***to regulate***, or ***to prescribe his capacities***. He becomes a member of the society, possessing all the rights of a native

> citizen, and standing, in the view of the constitution, on the footing of a native. ***The constitution does not authorize Congress to enlarge or abridge those rights.*** (Emphasis added)

See also *United States v. Wong Kim Ark, supra.*; *Schneider v. Rusk*, 377 U.S. 163, 166-67 (1964); *Mackenzie v. Hare*, 239 U.S. 299, 310 (1915). The rights spoken of are fundamental rights or those protected by the first eight amendments to the Constitution and Article IV, sec. 2, cl. 1.

The first eight amendments were not intended to limit the powers of the State governments but to operate upon the National government exclusively, see *Barron v. City of Baltimore*, 32 U.S. 243, 250 (1833). And in *Cruikshank, at 553*, the first eight amendments were said to have "no other effect than to restrict the powers of the national government."

The fundamental rights secured by the first eight amendments and Article IV, sec. 2, cl. 1 are conflated with the Petitioner's citizenship status of being a "citizen of the United States of America." He claims no other class of citizenship and the courts are without the judicial Power under Article III arising under the authority of the United States, nor is Congress empowered, to usurp or abrogate the Petitioner's right of Election that originated by his birth in one of the several States. The Petitioner **is not** a "citizen of the United States" or "U.S. Citizen" as these classes of citizenship are without the full privileges ***and*** immunities as secured by the Constitution of the United States and protected by one of the several States.

Most of the fundamental Rights in the Privileges and Immunities Clause, Article IV, sec. 2, cl. 1 were explicated in *Corfield v. Coryell*, 6 F.Cas. 546, 551-52 (1823), to wit:

> They may, however, be all comprehended under the following general heads: Protection by the government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, *552 and to pursue and obtain

> happiness and safety; subject nevertheless to such restraints as the government may justly prescribe for the general good of the whole. The right of a citizen of one state to pass through, or to reside in any other state, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the state; to take, hold and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the state; may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental: to which may be added, the elective franchise, as regulated and established by the laws or constitution of the state in which it is to be exercised.

Also see *Baldwin v. Fish and Game of Montana,* 436 U.S. 371, 383-84 (1978). The Petitioner relied on *Corfield*, supra., for the protection of his fundamental rights as personal property was seized by corporate citizens without court judgment based on federal notices issued by agency employees without executive Power of the United States and in violation of *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979).

Chief Justice Phillips discussed property and fundamental rights in *Spann v. City*, 235 S.W. 513, 514-515 (1921), said in part:

> "Property in a thing consists not merely in its ownership and possession, but in the unrestricted right of use, enjoyment and disposal. Anything which destroys any of these elements of property, to that extent destroys the property itself. The substantial value of property lies in its use. If the right of use be denied, the value of the property is

annihilated and ownership is rendered a barren right. ...

The fundamental rights of the people are inherent and have not been yielded to governmental control. They are not the subjects of governmental authority. They are the subjects of individual authority. Constitutional powers can never transcend constitutional rights. ...

To secure their property was one of the great ends for which men entered into society. The right to acquire and own property, and to deal with it and use it as the owner chooses, so long as the use harms nobody is a natural right. It does not owe its origin to Constitutions. It existed before them. It is a part of the citizen's natural liberty - an expression of his freedom, guaranteed as inviolate by every American bill of rights. It is not a right, therefore, over which the police power is paramount. Like every other fundamental liberty, it is a right to which the police power is subordinate. ...

The ancient and established maxims of Anglo-Saxon law, which protect these fundamental rights in the use, enjoyment and disposal of private property, are but the outgrowth of the long and arduous experience of mankind. They embody a painful, tragic history -*543 the record of the struggle against tyranny, the overseership of prefects and the overlordship of kings and nobles, when nothing so well bespoke the serfdom of the subject as his incapability to own property. They proclaim the freedom of men from those odious despotisms, their liberty to earn and possess their own, to deal with it, to use it and dispose of it, not at the behest of a master, but in the manner that befits free men. ...

> Laws are seldom wiser than the experience of mankind. These great maxims, which are but the reflection of that experience, may be better trusted to safeguard the interests of mankind than experimental doctrines whose inevitable end will be the subversion of all private right."

The privileges and immunities concerning a citizen of the United States and those of a state citizen are distinct from each other, see *Madden v. Kentucky,* 309 U.S. 83, 90-91 (1940); *U.S. v. Cruikshank, supra.*.

In *Maxwell v. Dow*, 176 U.S. 581 (1900) citing *Slaughter-House Cases*, 83 U.S. 36 (1872), Justice Miller did explicate the differences between the "privileges *and* immunities" of the several States and the "privileges *or* immunities" of citizens of the United States under the 14th amendment. In *Maxwell at 593,* Justice Peckham stated that "[T]he protection of the citizen in his rights as a citizen of the state still remains with the state." The discussion continued to include the principle as used in *U.S. v. Cruikshank, supra.*:

> ... sovereignty, for the protection of the rights of life and personal liberty within the respective states, rests alone with the states. But if all these rights are included in the phrase 'privileges and immunities' of **citizens of the United States**, which the states by reason of the Fourteenth Amendment cannot in any manner abridge, then the sovereignty of the state in regard to them has been entirely destroyed, and the *Slaughter-House Cases* and *United States v. Cruikshank* are all wrong, and should be overruled. (Emphasis added)

The *Slaughter-House Cases*, have not been overturned with only some negative history concerning applications to "persons" as in 28 U.S.C. § 1983, which has no application here and *Cruikshank* has never been overruled.

Also in *Maxwell at 597-98*, "the privileges and immunities of citizens of the United States do not necessarily

include all the rights protected by the first eight amendments to the Federal Constitution against the powers of the Federal government" and the court was convinced that no change in the privileges *and* immunities as protected in one of the several States had changed. Additionally, in *Maxwell at 587-590* is that the 14th Amendment only enforces the equal protection of all People within the several States; and, if the 14th Amendment did subject the state governments of any of the several States to the will of Congress, it would fetter and degrade the state governments to the censoring of Congress, departing from the structure and spirit of our institutions.

In the adjudged decision of *Crandal v. Nevada*, 73 U.S. 35 (1867) cited in *Slaughter-House Cases id.* at 27, are additional privileges *or* immunities of a citizen of the United States enumerated. And in *Minor* v. *Happersett*, 88 U.S. 162 (1874), it was said that the 14th amendment did not add to the privileges and immunities of a citizen of one of the several States; it simply furnished an additional guaranty for the protection of such as was already had.

In *Afroyim v. Rusk*, 387 U.S. 253, 267-68 (1967), the Court held that the Fourteenth Amendment does protect *every citizen* of this Nation against a congressional forcible destruction of his citizenship, to wit:

> Citizenship is no light trifle *268 to be jeopardized any moment Congress decides to do so under the name of one of its general or implied grants of power. ...We hold that the Fourteenth Amendment was designed to, and does, protect every citizen of this Nation against a congressional forcible destruction of his citizenship, whatever his creed, color, or race. Our holding does no more than to give to this citizen that which is his own, a constitutional right to remain a citizen in a free country unless he voluntarily relinquishes that citizenship.

The privileges and immunities protected by the 14th amendment are those of a national citizenship and they are such as only pertaining to citizenship of the United States as distinguished from state citizenship, see *Slaughter-House Cases, supra.*; *Rosenthal v. New York*, 226 U.S. 260, 266. The 14th Amendment changed nothing, as the highest duty of the several States is to protect all of the *People* within its boundaries of their inalienable rights, see *U.S. v. Cruikshank, supra.*. The 14th Amendment protections were only for States not to abridge existing privileges ***or*** immunities of citizens of the United States of which there are almost none, as held in the *Slaughter-House Cases, supra.*

The Petitioner fathoms no valid reason to relinquish his fundamental rights under the qualification of the citizen of the United States of America. The Petitioner has fundamental rights guaranteed by a government of one of the several States and therefore the state jurisdiction was the proper forum to protect said inalienable rights when there is no Officer of the United States to exercise the executive Power of the United States to initiate removal of the Case to a federal court that has no jurisdiction as declared by legislative Power in violation of Article III, section 2.

**Reasons for Granting the Writ**

The Petitioner has relied upon the adjudged decision of *Levins v. Rovegno*, 12 P. 161, 162-64 that states an ultimate fact is deduced from probative facts by a process of natural reasoning. The inference or conclusion of law is by a process of artificial reasoning. The evidentiary facts become the premises and the ultimate facts the conclusion.

"A presumption of fact is the natural connection of one fact with others by a combined process of proof and argument; a presumption of law is a similar connection, artificially made by annexing a rule of law or legal incident to a particular fact proved. * * * . . . all facts; and whether their existence or non-existence is reached by a process of natural reasoning, or by artificial process known as a

'conclusion of law,' does not in the least alter their *status* as facts," *ibid at 163.*

The Petitioner has relied upon the adjudged decision as held in *People ex rel. v. Sexton et al.*, 444 N.Y.S.2d 884, 885 (Sup. Ct. NY County 1943) where there are only two kinds of facts, being evidentiary facts and ultimate facts. *Ultimate facts are essential for any determination or decision by the court*, and evidentiary facts are necessary to prove essential or ultimate facts. See also *Perales v. Braslau's Furniture Co.*, 493 S.W.2d 638, 640 (Ct. of App. Tex. 1973); *Wichita Falls & Oklahoma Ry. Co. v. Pepper*, 135 S.W.2d 79, 84 (Sup. Ct. Tex. 1940).

## I. Federal Circuit Has Decided Ultimate Facts In Direct Conflict With the Constitution of the United States and Prior Decisions of This Court

### A. Removal by Employees Impersonating Protections of Officers of the United States

The ultimate facts determined in the 9th Cir. Memorandum ("Cir. Mem.") (App. 1) and the USDC's final Order (App. 5) are in direct conflict with Article II, section 2, clause 2 and the cases listed below.

The Cir. Mem. pronounced the ultimate fact that the Internal Revenue Service ("IRS") Respondents were "employees of the Internal Revenue Service" and "federal agents" citing 28 U.S.C. §1442(a)(1). The essential parts of §1442(a) are "A civil action . . . may be removed by them to the district court of the United States . . . [by] any officer . . . of the United States."

It is an essential fact that this court has adjudicated that an agency is excluded from the statutory Power to remove Cases and Congress has expressly limited removal power to individual officers only, see *International Primate, supra.*. If this essential fact is true and binding upon the IRS and the DoJ, both proclaimed as agencies in the public record by 26 CFR §601.101 and 5 U.S.C. §§101 and 105 respectively, it flows *a fortiori*, that employees from either

agency are not empowered with the sovereign Power of the United States to perform a Removal action under 28 U.S.C. §1442(a)(1) as held in the Cir. Mem..

The Cir. Mem.'s ultimate fact concerning "employees" of the IRS and "federal agents" is in direct conflict with Article II, sec. 2, cl. 2 and the prior decisions of the Supreme Court of the United States in *Buckley v. Valeo*, 424 U.S. 1, 120-134 (1976) where at 126 "employees are lesser functionaries subordinate to officers of the United States," and "[w]e think its fair import is that any appointee exercising significant authority pursuant to the laws of the United States is an 'Officer of the United States,' and must, therefore, be appointed in the manner prescribed by s 2, cl. 2, of that Article."

Officers of the U.S. must have an "Office" first with Powers and Duties "which shall be established by Law" and only then can Officers of the U.S. be appointed to said "Office" under the requirements arising under the Article II, sec. 2, cl. 2. The "employees" have no Office, are not appointed under Article II, sec. 2, cl. 2 and therefore do not exercise the authority of the United States under the Constitution to remove a Case in Law and Equity to federal court. As employees did remove the Case and the 9th Circuit affirmed, the ultimate facts in the Cir. Mem. are in direct conflict with *Martin v. U.S.*, 168 F.198, 203 (8th Cir.1909); *Scully v. U.S.*, 193 F.185, 187 (Cir.Ct.D.Nev. 1910); *Burnap v. U.S.*, 252 U.S. 512, 517 (1920); *Myers v. U.S.*, 272 U.S. 52, 163 (1926); *Cain v. U.S.*, 73 F.Supp. 1019, 1020 (DC N.D.Ill.1947); *Buckley v. Valeo*, *supra*.. The Petitioner requests the court to be cognizant of these errors in the ultimate facts of the Cir. Mem. and correct the injustice applied upon the citizen of one of the several States.

The positions of Officers of the US doesn't include employees of the United States, as each are mutually exclusive, and agency employees are not clothed with the executive Power of the United States arising under Article II, see *Buckley at* 117-133 on Public Officers, i.e., inferior

Officers of the United States; *Todd v. U.S.*, 158 U.S. 278, 282 (1895). Public Officers are authorized and empowered to exercise some sovereignty of the State with ministerial duties, but an employee is bound to only exercise ministerial duties. See *State ex rel. Milburn v. Pethtel*, 90 N.E.2d 686 (1950); *Newman v. Skinner*, 191 N.E. 127 (1934).

An exhaustive examination of the essential elements of a "public Officer" in any one of the several States and the essential elements pertaining to the creation of an "Office" has been adjudicated in *State v. Hawkins*, 257 P. 411 (Sup. Ct. Mont. 1927) containing five elements indispensable to a public office of a civil nature. As discussed at 418, to wit:

> . . . to make it a public office of a civil nature: (1) It must be created by the Constitution or by the Legislature . . .; (2) it must possess a delegation of a portion of the sovereign power of government, . . .; (3) the powers conferred, and the duties to be discharged, must be defined, directly or impliedly, by the Legislature or through legislative authority; (4) the duties must be performed independently and without control of a superior power, other than the law, . . .; (5) it must have some permanency and continuity, . . . In addition, in this state, an officer must take and file an official oath, hold a commission or other written authority, and give an official bond, if the latter be required by proper authority.

Additionally, *ibid* at 414, " . . . we may not presume he is an officer; it must be shown. * * * It must appear in the record" (citations omitted). The federal circuit was wrong to assume the hiring of employees equated to being qualified as a public Officer of the U.S., as none of the individually named agents ever produced the evidentiary fact that would substantiate or prove their use of executive Power arising under Article II, section, 2, clause 2.

It is pronounced in *State v. Cole*, 148 P. 551, 552 (Sup. Ct. Nev. 1915), to wit:

> An office does not spring into existence spontaneously. It is brought into existence, either under the terms of the Constitution, by legislative enactment, or by some municipal body, pursuant to authority delegated to it. "**All public offices must** originally have been ***created by the sovereign*** as the foundation of government." (Emphasis added.)

And in the holding of *State v. Spaulding*, 72 N.W. 288, 291 (Sup. Ct. Iowa 1897), the distinction of a public "position", where an employee is explicated from a public officer, to wit:

> "A **position**, the **duties** of which * * * **can be changed at the will of the superior**, * * * is not an office, but a mere employment, and the incumbent is not an officer, but a **mere employee**." (Emphasis added)

Under the unambiguous language of Congress in 26 U.S.C. §7804, the IRS respondents are mere employees having no Office created by Law. They perform duties at the behest of the Commissioner of Internal Revenue ("C.I.R."), who also has no Office as prescribed by Law for a bona fide Officer of the U.S. to exercise prescribed executive Powers and Duties from, see 26 U.S.C. §7802(a). It is the Secretary of the Treasury who establishes duties and powers for the C.I.R. and not Congress thereby circumventing the delegation of sovereign Power under the Authority of the United States and Article II, sec. 2, cl. 2 to the C.I.R.. The Dept. of Treasury is an agency under 5 U.S.C. §§101 and 105 and the Secretary sits as the head of this agency.

Each of the IRS agency workforce has executed a Form 61 (App. 18) containing an oath testifying to be an "employee of the Government of the United States", being an essential fact. The Form 61 does not comply with Article II, sec. 2, cl. 2 for constitutional appointment purposes, and makes no mention of the essential fact that no Office has

been created "by Law" with Powers and Duties for the employee to be empowered as an Officer of the U.S..

The individually named employee Respondents were sued in their individual capacities for performing duties in violation of the congressional mandate of limitations imposed on all agencies and agency employees under the Administrative Procedures Act in 5 U.S.C. §552(a)(1). It is said that officials seeking absolute immunity *must show* that such immunity is justified for the governmental function at issue, see *Hafer v. Melo*, 502 U.S. 21, 26-27 (1991). This condition was not met and the federal circuit was mistaken to allow the removal by employees without the mandated Article II, sec. 2, cl. 2 authority. And, unless a distinct cause of action is asserted against the entity itself, the entity (DoJ acting on behalf of IRS) is not even a party to a personal-capacity lawsuit and has no opportunity to present a defense, as supported by *Kentucky v. Graham*, 473 U.S. 159, 169.

The Cir. Mem.'s ultimate fact that the "federal agents [were] acting in their official capacity" is in error and in conflict with Article II, sec. 2, cl. 2 and *Martin, Burnap, Meyers, Buckley, Hawkins, Cole, and Spaulding, supra*..

The ultimate facts are that IRS federal agents are all mere employees exercising ministerial duties subject to the mandatory statutory limitations that Congress has provided for all agency personnel regarding substantive regulations and by the non-existence of all of the *essential elements* for an Officer of the U.S. flows *a fortiori* that the Petitioner's Case could not have been removed by law from the Superior Court of Alaska under 28 U.S.C. §1442(a)(1) as the employees are not Officers of the U.S. and have no Office.

The removal was immediately challenged on the basis of jurisdiction and qualifications of the agents and nothing whatsoever was provided by the respondents to justify the removal as the Petitioner relied upon *Federal Crop Ins. V. Merrill*, 332 U.S. 380 (1947) for the requirement that federal employees offer evidence of their delegated authority to act as "Officers of the United States" in order to accurately

ascertain that "he who purports to act for the Government stays within the bounds of his authority. The scope of this authority may be explicitly defined by Congress or be limited by delegated legislation," *id.* at 384. This ultimate fact was negated by the federal circuit's rulings and in the Cir. Mem..

If "employees" can be clothed with the sovereign protection of "Officers of the United States", then Article II, sec. 2, cl. 2 is diluted and destroyed. Additionally, the history of American jurisprudence by holding the requirements of Article II, sec. 2, cl. 2 supreme with careful discussion of the essential differences between ministerial employees and Officers of the United States becomes meaningless. The Petitioner respectfully requests the court to conclusively decide if agency employees exercise constitutional authority over citizens of the United States of America to deny fundamental rights and liberties without court judgment and in violation of Art. II, sec. 2, cl. 2.

**B. "Taxpayer Status Determination" is not within the judicial Power of the Article III Courts**

The ultimate fact referenced by the federal circuit concerning the taxpayer status determination is in direct conflict with the judicial Power of the United States arising under Article III, sec. 1 & sec. 2, cl.1 for all Cases in Law and Equity exercising the judicial Power of the United States under the Authority of the United States in the several States.

The ultimate fact and administrative issue of the taxpayer status determination of the Petitioner is only found in 26 CFR §601.201 under the statutory authority of 5 U.S.C. §§ 301 & 552. It is the sole responsibility of IRS employees to make said determination and the federal circuit is estopped by legislative command to abstain from deciding any issues with regard to federal taxes under 28 U.S.C. §2201. If the courts were to make such a determination it would enable the IRS agency to sit as a Court of Errors of the court's decision because the agency employees have the final say of establishing who is a "taxpayer." This divests the federal

circuit of cognizance of this Class of Case arising under Article III of all Cases in Law and Equity in the several States exercising the judicial Power of the United States under the Authority of the United States.

The unambiguous language of 28 U.S.C. §2201 clearly prohibits *all* determinations of "taxpayer" and "Individuals" concerning federal taxes with the exception of 26 U.S.C. §7428. The federal circuit has erred in using and applying case law that concerns "taxpayer" issues against the Petitioner as no determination has been made for the Petitioner to be classified as a "taxpayer" and he makes no claim to the essential elements for qualifying as one.

The Cir. Mem.'s ultimate fact in the statement *"Elias v. Connnett*, 908 F.2d 521, 523 (9th Cir. 1990), we affirm" refers specifically to "the taxpayer . . ." classification at 525, being irrefutable of an essential fact that a determination has been made by the federal circuit that the Petitioner is a "taxpayer" in direct conflict with the non-existence of the ultimate fact found only in §601.201.

In the adjudged decision of *Hayburn's case*, 2 U.S. 408 (1792), it was clearly held that no executive or administrative duties can be assigned to judges under Article III and said judges' decisions cannot be appealed or altered by the executive Branch. An on-point situation appears in the Petitioner's Case where the IRS operates under the executive agency of the Department of the Treasury, *see* 5 U.S.C. §§101 and 105, and it has the final and unalterable decision to determine the ultimate fact of taxpayer status determination upon *Individuals* under 26 C.F.R. §601.201(a), thereby acting as a Court of Errors on judicial decisions regarding this matter. The federal circuit is powerless to assume nonjudicial duties reserved for executive agencies as mandated by Congress and by the self-imposed regulation promulgated by the Secretary of the Treasury for the IRS in § 601.201. This principle and holding has been affirmed in the adjudged decisions of *U.S. v. Todd*, 54 U.S. 52 (1794), *United States v. Ferreira*, 54 U.S. 40 (1851), *Plaut v.*

*Spendthrift Farm, Inc.*, 514 U.S. 211 (1995), *Muskrat v. United States*, 219 U.S. 346, 353 (1911), *Postum Cereal Co. Inc. v. California Fig Nut Co., Inc*, 272 U.S. 692, 700 (1927); *Buckley v. Valeo, supra.*.

All of the Respondents, without a single shred of evidentiary facts or ultimate facts, pronounced *ipse dixit* as true that the Petitioner was a "taxpayer." The non-existence of the ultimate fact of taxpayer status determination existing under 26 C.F.R. §601.201(a) is conclusive, and this essential fact was supported by the uncontroverted affidavit filed with the Complaint for Injunctive Relief stating that no taxpayer status determination was noticed to the Petitioner nor was one ever produced as evidence by any of the Respondents.

It is mandatory for the IRS to follow its own self-imposed regulations and this requirement was not met by the agency even after the Petitioner requested a taxpayer status determination to be made. The §601.201 regulation establishes unambiguously that the agency is ***to make said determinations*** of who are "taxpayers." The IRS and it's employees are bound to the regulations and the courts shall enforce them; see *U.S. v. Nixon*, 418 U.S. 696 (1974); *Service v. Dulles*, 354 U.S. 368 (1957); *Associated Builders v. U.S. DOE*, 451 U.S. 287 (1978). The agency is to "be held to strict compliance with their own regulations and rules of procedure," *Associated Builders* at 288, and the agency violated §601.201 as the taxpayer Private Letter Ruling ("PLR") was never preformed. Thus, the IRS failed to comply with its own rules and violated its self-imposed obligation that is an essential fact, see *Lyng v. Payne*, 476 U.S. 926, 938 (1986). Therefore, the term "taxpayer" as it relates to the Petitioner has no effect as a matter of law.

From the exclusive ultimate fact of the taxpayer status determination posited in §601.201 of who is a "taxpayer" and with the IRS acting as a Court of Errors upon this essential fact flows *a fortiori* that no court of the United States has cognizance of this Class of Case arising under Article III, sec. 2, cl.1 in Law and Equity exercising the

judicial Power of the United States in the several States. The court should correct the unsubstantiated finding of the federal circuit in the presumption of a taxpayer status determination being applicable to the Petitioner when none was in effect and the qualifications to arrive at such a classification are inconsistent with the fundamental rights of a citizen of one of the several States.

**C. The whole judicial Power of the United States.**

The Cir. Mem. uses as an ultimate fact that the "district court properly dismissed Collier's action as barred by the Anti-Injunction Act, *see* 26 U.S.C. §7421(a) and the tax exception to the Declaratory Judgment Act, *see* 28 U.S.C. §2201(a)." There can be no judicial Power of the United States arising under Article III in the federal courts if Congress legislates restrictions upon the Class of Cases adjudicated by the judiciary. A citizen of one of the several States is without remedy of any kind if denied access to the fundamental right of the constitutional Article III jurisdiction for due process of law in the Courts of the United States.

The Petitioner did not invoke a national citizenship status in the Injunction and clearly stated the applicable citizenship status of citizen of one of the several States for jurisdictional purposes, excluding any claim to being a "citizen of the United States." In *Balzac at 309*, the decision states "It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the status of the people who live in it." See also *In re Guantanamo Detainee Cases*, 355 F.Supp.2d 443 (D.C.Dist. of Col. 2005). The state of Alaska clearly had jurisdiction of privilege and immunity issues as the Petitioner is domiciled and received money (property) in one of the several States and the property was seized within its boundaries by two state licensed corporate citizens. It is personal property that a citizen of one of the several States can expect protection by the state government exercising it's jurisdiction of the soil. This fundamental right of property is so important to the

personal liberty of all the *People* it is stated with great specificity and clarity in *Coppage v. State of Kansas*, 236 U.S. 1, 14 (1915).

It was the sovereign and independent jurisdiction of the state government that the Petitioner relied on for the protection of his vested and fundamental rights as the corporate citizens did seize property without court judgment in direct conflict with *Grupo Mexicano v. Alliance Bond Fund, supra.,* and *Fuentes v. Shevin, supra.*. The notices they relied on were not properly executed by bona fide Officers of the U.S. and did not have the mandated substantive rules conflated with the statutes to create an obligation upon the Petitioner to perform a duty.

Once placed in federal jurisdiction, the Petitioner was denied his inalienable right to have his *Case* in Law and Equity tried under Article III jurisdiction, which his constitutional standing warrants and is guaranteed by the rule of law as decided by *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816). In *Martin at 339,* and in *The Moses Taylor*, 71 U.S. 411, 428-30 (1866), it was adjudicated by this Court that **all** of the judicial Power ***must be vested in some court*** by Congress and to withhold any judicial Power would defeat the Constitution and the separation of powers doctrine.

The Cir. Mem. used as an ultimate fact that Petitioner's "contention" regarding his fundamental right to Article III jurisdiction was "lacking merit." This represents a violence of the most severe kind against the Constitution and the Petitioner asks the court to correct the error.

The federal circuit's Orders and Rulings were issued under the legislative authority of Congress and not written arising under the jurisdiciton of Article III in Law and Equity for all *Cases* exercing the whole judicial Power of the United States under the authority of the United States. Congress cannot eviscerate the judicial Power of the Court or deny a party access to a constitutional court, as the judicial Power ***shall be vested*** in one Supreme Court and such inferior courts as Congress shall from time to time ordain and establish, see

*United States v. Klein*, 80 U.S. 128, 147 (1871). It has further been held in *Prigg v. Commonwealth of Pennsylvania*, 41 U.S. 539, 585 (1842) that the judicial Power *shall* be vested in some inferior Court by Congress, to do otherwise would do violence to the whole Constitution and overturn a whole series of decisions. *Shall be vested* has been adjudged by the Supreme Court to be imperative upon Congress to vest ***the whole judicial Power*** upon some federal Court. See *Eisentrager v. Forrestal*, 175 F.2d 961, 966 (1949) and *Veith v. Jubelirer*, 541 U.S. 267, 277-78 (2004).

Judge McDuffie in the Southern District of Alabama stated in *Collins v. Biron*, 56 F.Supp 357 (1944), a cogent pronouncement being that "Amongst rights of American citizens under our form of Constitutional Government, no right is treasured more than the right of every citizen to have his day in Court. Courts are instituted with the responsibility and high duty to see that this, as well as all fundamental rights, are maintained inviolate." The Petitioner has not been granted access to a court exercising the whole judicial Power of the United States to which he is entitled by his constitutional standing of being a citizen of one of the several States, i.e., citizen of the United States of America, in order to confront his accusers and protect his property from agents pretending to be Officers of the U.S. and corporate citizens seizing assets without court judgment. This fundamental right is guaranteed to the Petitioner's class of citizenship with its protections of the privileges *and* immunities embedded in the Constitution of the United States and in any of the several States' constitutions.

**D. Substantive Regulations for 26 U.S.C. §3402.**

The ultimate fact as determined in the Cir. Mem. regarding 26 U.S.C. §3402 and *Bright v. Bechtel Petroleum, Inc.*, 780 F.2d 766, 770 (9th Cir. 1986) is in direct conflict with the holding of this court in *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979).

The Cir. Mem.'s ultimate fact relied upon in *Bright* is at *770,* "Under 26 U.S.C. Sec. 3402, an employer has a mandatory duty to withhold federal income tax from an employee's ***wages*** where required by ***applicable regulations***." (Emphasis added.)

Under the unambiguous language of 5 U.S.C. §552(a) and acknowledged by the IRS in 26 CFR §601.702(a), the IRS is to publish all regulations in the Federal Register and under §601.702 (a)(1)(i)(D) that "Substantive rules of general applicability adopted as authorized by law" shall be published. And also, in §601.702(a)(2)(ii), if substantive rules are not published they "shall not adversely change or affect a person's rights."

There are three primary classifications of regulations pronounced by the IRS in §601.701, being "part 601 (Statement of Procedural Rules)"; and, "part 301 of this chapter (Procedure and Administration Regulations)"; and, "various ***substantive regulations*** under the Internal Revenue Code of 1986, such as the regulations in part 1 of this chapter (Income Tax Regulations), in part 20 of this chapter (Estate Regulations), and in part 31 of this chapter (Employment Tax Regulations)." (Emphasis added.)

Of the three primary classifications of regulations, only the "substantive regulations" composed of "part 1", "part 20" and "part 31" have the "force and effect of law" under the statutory authority of Congress as adjudicated in *Chrysler, supra. at* 282-83.

Petitioner supplied the federal circuit and the Respondents of all the substantive regulations for "wages" under 26 U.S.C. §3401 as used in *Bright* and by reference in 26 U.S.C. §3402, i.e. "...employer making payment of wages ...," being used as an ultimate fact in the Cir. Mem. Included in the Appendix are all of the substantive regulations under §3401 (Wages) and §861 (Sources) as can best be found in the public record, see App. 22 and 20 respectively. None of the substantive regulations for §3401, Wages, create an obligation for the Petitioner to perform a duty and thus have

no force and effect of law and no application to the Petitioner as supported by *Chrysler, supra.*

In accord with "where required by applicable regulations" in *Bright at 770*, the IRS is to use tax regulations under the statutory authority of 5 U.S.C. §§ 301 & 552 in 26 CFR §601.101, "The ***regulations*** relating to taxes administered by the Service are ***contained in Title 26*** of the Code of Federal Regulations." (Emphasis added.) Any substantive regulation not in Title 26 is not obligatory upon the public for performance of a duty pursuant to the self-imposed duty of the IRS as posited in §601.101.

Petitioner has relied upon the holding of the Court in *Chrysler Corp., supra.*, the unambiguous language of Congress and the substantive regulations; and requests the Court to correct the federal circuit's error that statutes §3401 and §3402 create obligations on the public without being conflated with substantive regulations, which is in direct conflict to the ultimate facts adjudicated in *Chrysler.*

**E. Regulating and Abridging the rights of citizens of the United States by Congress**

The ultimate facts determined in the Cir. Mem. are in violation with the legislative Power of Congress arising under Article I, sec. 8, cl. 4 and Article IV, sec. 2, cl. 1, as well as being in conflict with *Osborn v. Bank of the U.S., supra., U.S. v. Wong Kim Ark, supra., Schneider v. Rusk, supra., Mackenzie v. Hare, supra.,* where it is pronounced as ultima fact that Congress is not to abridge, enlarge, or regulate citizenship. The ultimate facts in the Cir. Mem. are additionally in conflict with the 14th Amendment that did not change the fundamental rights of a citizen of one of the several States with their protections residing in one of the several States as cited in *Slaughter-House Cases, supra., Maxwell v. Dow, supra.,* and *U.S. v. Cruikshank, supra..*

The federal circuit treated Petitioner's citizenship status of a citizen of one of the several States with administrative indifference by superceding his fundamental

rights with the application of statutorily created rights. The federal circuit ignored the sovereign jurisdiction as pled in the state of Alaska and denied the Petitioner a remedy and his guaranteed right to due process of law. Collectively, the federal circuit has applied the status of "citizen of the U.S." against the Petitioner contrary to his true citizenship status obtained by birth in the United States of America and affirmed by oath under the right of Election with an allegiance to one of the several States.

The "citizen of the United States" is an essential element in what an "Individual" means, see 5 U.S.C. §552a.(a)(2), which is irrevocably conflated with all of the *essential elements* of being a citizen of the U.S., those being; the Social Security Act ("SSA") at 49 Stat. 620 as amended with the required Social Security Number ("SSN"); and, the IRS in 49 Stat 620 Titles VIII & IX; and, the denial of access to the Courts in 42 U.S.C. § 405(g) & (h); and, with 26 U.S.C. §6109(d) where it is stated that the SSN shall be "used as the identifying number for such individual" and supported by *Brit v. Consolidated School District*, 829 S.W.2d 538, 542 (1992) that "a Social Security number shall be used as the tax identification number" ("TIN"); and, mandating the use of the SSN and/or TIN on the Form 1040 (OMB 1545-0074); and, rights are created against the United States by Individuals (for federal benefits created by the SSA); and then, Congress can by statute, for citizens of the U.S., deny access to all courts of the United States and even a remedy as held in *U.S. v. Babcock*, 250 U.S. 328, 331(1919), *Dismuke v. U.S.*, 297 U.S. 167, 171-72(1936), *Garza v. Chater*, 891 F.Supp. 464, 466-67 (N.D. Ill 1995) and *Allen v. Graham*, 446 P.2d 240, 243-44 (Ct. App. Ariz. 1968). The Petitioner is a citizen of the United States, i.e., citizen of one of the several States, conflated with the fundamental rights guaranteed by Article IV, sec. 2, cl. 1, which does not qualify him for the essential elements of an Individual or a citizen of the United States.

The Petitioner did not have full disclosure of the disability that results by the registration for a SSN; and, the SSN account was not issued in his proper name, i.e., true name, as defined in The Oxford English Dictionary, see App. 28; and, Petitioner has revoked any claim or registration to a future claim against the United States in the public record. Once the Petitioner was informed of the essential fact that the SSN required a citizenship status that does not include all the fundamental rights arising under Article IV, section 2, clause 1, he performed the due dilegence to research and quantify the ultimate facts as adjudicated by this court of the differences between the citizenship class types and the essential fact that Petitioner's present citizenship status cannot be regulated or abridged by the SSA. Abrogated rights are qualitatively different than statutory violations.

Petitioner filed the Case in Law and Equity as an American citizen, citizen of the United States of American, and Natural Born Native and citizen of the foreign state of California domiciled in the territorial boundaries of Alaska. His citizenship status is unique, perhaps a bit peculiar, certainly in the minority and is secured by the Constitution of the United States under Article IV, sec. 2, cl. 1. Congress is not empowered to naturalize any foreigner other than that arising under Article I, sec. 8, cl. 4 and it cannot mandate abrogation of fundamental rights by the SSA with it's obligatory oath to being a citizen of the United States in contrast to that of a citizen of one of the several States.

Congress has created a hegemonic Class identified as citizens of the U.S. irrevocably conflated with the elements inherent in the SSA, *supra.* whereby Congress enlarges, regulates, and abridges the rights of citizens of the U.S. of which Congress has no legislative Power under the Constitution of the United States to exercise and is directly prohibited by the pronouncements in *Osborn supra.*, and in *United States v. Wong Kim Ark, supra.*; *Schneider v. Rusk, supra.*; *Mackenzie v. Hare, supra.*.

The attempts to clothe citizens of the U.S. with fundamental rights possessed by white citizens, i.e. citizens of the several States, is evidenced in 14 Stat 27, which acted to give persons of previous slavery, as *citizens of the U.S.,* an appearance of the same existing inalienable rights as the citizens of any of the several States, *ibid 27, sec.1.* See also 16 Stat. 144 sec. 16; 18 Stat. 336; R.S. 1878 §§ 1977, 1978. The 14 Stat 27 additionally "declared" all persons born in the U.S. to be "citizens of the United States" without mention of the ultimate fact that this citizenship status, standing on it's own merits, has no fundamental rights protected by any one of the several States, cf. *Cruikshank at 449-551.*

Congress with no legislative Power or treaty has in 8 U.S.C. §1401 *declared* all Indians, Eskimo, Aleutian, or other aboriginal tribe, to be citizens of the U.S. and in 8 U.S.C. §1404, Indians in Alaska after 1924 are to be citizens of the U.S.. The aboriginal people in Alaska who are domiciled on what used to be Indian country or on the reservation and purportedly sovereign, in at least some respects, are granted special privileges *or* immunities, property taxation exemptions or Alaska Native Corp. dividends under the plenary Power of Congress in opposition to other citizens of the U.S. of the same classification. This is clearly regulation of this class of citizenship.

The hegemonic Class of citizen of the United States is mandated by Congress to submit application for the SSN with the possible accumulation of federal benefits or gratuities that exists outside of all the constitutionally secured rights of citizens of the several States. Congress can and does deny to this hegemonic Class access to courts of Law or remedies by statute and it has by this agenda neglected and failed to provide for the whole judicial Power of the United States to be present in courts of the United States for citizens of the several States, who are not citizens of the U.S., as it is an ultimate fact that the whole judicial Power of the United States must be vested in some courts of the United States in the adjudications of *Martin* and *The Moses Taylor, supra.*.

Congress has mandated conformity upon the hegemonic Class that it controls, and exacts pecuniary, property loss, or even criminal charges with confinement against those who choose not to surrender their fundamental rights as a citizen of one of the several States. This is the situation that the Petitioner finds himself as he struggles to access a constitutional court of the United States exercising the whole judicial Power of the United States to correct the abrogation of his fundamental rights as a citizen of one of the several States by the legislative Power of Congress through the SSA and other applications, i.e., Application for Passport - OMB # 1405-0004, that demand an oath of allegiance to a class of citizenship (U.S. Citizen) different than that as protected in Article IV, section 2, clause 1 and pronounced in *Corfield, supra.*.

The Constitution of the United States *does not* authorize Congress to *enlarge or abridge* a native-born citizen's fundamental rights, see *Osborn, supra,* and yet the federal circuit has upheld Congress' power to abridge Petitioner's fundamental rights by the bills of attainder, 26 U.S.C. §7421 and 28 U.S.C. §2201, under the guise that the Petitioner is a citizen of the U.S. conflated with the essential elements for this class, which he is not.

**Conclusion**

For the foregoing reasons, this Court should grant certiorari in this case to resolve the fundamental issues of constitutional law, and decide that Petitioner's right to Election of citizenship cannot be usurped or abrogated by the legislative Power of Congress to deny him of the whole judicial Power of the United States and of Officers of the United States with a public Office created by Law.

Stephen Collier, *Pro per*
P.O. Box 104178
Anchorage, Alaska 99510
907.522.1776

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FILED
DEC 21 2005
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

STEPHEN CARROLL COLLIER,
Plaintiff-Appellant,

v.

JIM PRUETT; et al.,
Defendants-Appellees.

No. 04-35571
D.C. No. CV-03-00251-A-JKS
MEMORANDUM*
Appeal from the United States District Court
For the District of Alaska
James K. Singleton, Chief Judge, Presiding
Submitted December 5, 2005**

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Stephen Carroll Collier appeals pro se the district court's order dismissing his action for injunctive and declaratory relief, alleging that employees of the Internal Revenue Service, his employer, and his bank had instituted improper levy actions against him. We have jurisdiction under 28 U.S.C. §1291. After de novo review, *Elias v. Connett*, 908 F.2d 521, 523 (9th Cir. 1990), we affirm.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Removal of Collier's action was proper because he named as defendants federal agents acting in their official capacity. *See* 28 U.S.C. §1442(a)(1). The district court properly dismissed Collier's action as barred by the Anti-Injunction Act, *see* 26 U.S.C. §7421(a), and the tax exception to the Declaratory Judgment Act, *see* 28 U.S.C. §2201(a). We reject Collier's contention that his claims against the government's levy actions fall into the judicial exception to the Anti-Injunction Act. *See Elias*, 908 F.2d at 525 (requiring demonstration that government cannot ultimately prevail on the merits and that taxpayer will suffer irreparable injury without injunctive relief).

Because Collier's claims against his employer and his bank are based on withholding actions they took pursuant to mandatory legal duties, the district court also properly dismissed those claims. *See* 26 U.S.C. §§3402, 3406; *Bright v. Bechtel Petroleum, Inc.*, 780 F.2d 766, 770 (9th Cir. 1986).

Collier's remaining contentions lack merit.

We deny Collier's motion for sanctions. The clerk shall file the reply brief received on December 20, 2004.

AFFIRMED.

FILED
MAR 17 2006
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

STEPHEN CARROLL COLLIER,
Plaintiff-Appellant,

v.

JIM PRUETT; et al.,
Defendants-Appellees.

No. 04-35571
D.C. # CV-03-00251-A-JKS
Alaska (Anchorage)
ORDER

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

The panel has voted to deny appellant's petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. See Fed. R. App. P. 35.

The petition for panel rehearing and the petition for rehearing en banc are denied.

No further filings will be accepted in this closed appeal.

SUPREME COURT OF THE UNITED STATES
OFFICE OF THECLERK
WASHINGTON, DC 20543-0001

June 19, 2006

Stephen Carroll Collier
c/o P.O. Box 104178
Anchorage, AK 99510

RE: Collier v. Pruett, et al.

Dear Mr. Collier:

Returned are 39 copies of the petition for writ of certiorari in the above-entitled case sent by commercial carrier on June 12, 2006 and received on June 19, 2006, which fails to comply with the Rules of this Court.

The questions presented for review must be followed by the list of parties (if all do not appear on the cover), corporate disclosure statement (if applicable), table of contents, table of authorities, citations of the official and unofficial reports of opinions and orders entered in the case, statement of the basis for jurisdiction, constitutional provisions, treaties, etc., statement of the case, reasons for granting the writ, and the appendix. Rule 14.1.

A petition for writ of certiorari may not be joined with any other pleading. Rule 12.4.

Kindly correct the petition and appendix so that it complies in all respects with the Rules of the Court and return it to this office promptly so that it may be docketed. Unless the petition is received by this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

Three copies of the corrected petition must be served on opposing counsel. Rule 29.3.

This office shall retain one copy of the petition and your postal money order in the amount of $300.00 in expectation of timely receipt of a properly prepared petition.

Sincerely,
William K. Suter, Clerk
By:

/s/ M. Blalock

M. Blalock
(202) 479-3023

Enclosures

FILED
MAY 19 2004
United States District Court
District of Alaska
By /s/ BB Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

STEPHEN CARROLL COLLIER,
Plaintiff,

vs.

UNITED STATES of AMERICA,
GENERAL COMMUNICATIONS , INC.,
and WELLS FARGO BANK,
Defendants.

Case No. A03-0251 CV (JKS)

ORDER

Plaintiff Stephen Carroll Collier sues, among others, Wells Fargo Bank ("Wells Fargo"), seeking an injunction and declaratory relief to prevent Wells Fargo from honoring a back-up withholding notice that the Internal Revenue Service sent Wells Fargo pursuant to 26 U.S.C. §3406. Wells Fargo moves to dismiss on two related grounds: (1) Collier has failed to state a claim against it and (2) this Court lacks subject matter jurisdiction over Collier's claims. See Docket Nos. 46 (Mot.); 49 (Opp'n); 51 (Reply).

The law governing this case is set out in the Court's order at Docket No. 45 and need not be repeated here. Collier is appearing pro se, and his pleadings must be liberally construed. Liberal construction does not avail Collier, however, because Congress has carefully circumscribed remedies available to individuals like Collier who believe that they are improperly attempting to collect taxes from him; taxes he alleges he does not owe. Congress has provided that a person who denies owing taxes demanded by the IRS has two options. He may pay the disputed amount under protest

and sue for a refund in this Court, or he may bring an action in the Tax Court.

Wells Fargo does not have discretion to evaluate a notice from the IRS pursuant to 26 U.S.C. §3406; it is required to comply with the indicated back-up withholding. If the notice is incorrect, Collier must litigate with the United States – he cannot sue Wells Fargo. Thus, even if Collier were correct that the absence of implementing regulations somehow undercut "C" notices, he would have to make that argument in an action against the United States. Wells Fargo would be required to continue to honor the "notice" until such time as a court of competent jurisdiction set it aside.

Finally, if Collier is correct that the IRS is not proceeding in conformity with the applicable federal statutes, rules and regulations, his exclusive remedy is against the Untied States under the Tax Payor's (sic) Bill of Rights. *See generally* 26 U.S.C. §7433. He may not sue his employer or his bank when they merely comply with IRS notices. In conclusion, Collier has failed to state a claim against Wells Fargo. Further, his claim is so insubstantial that this Court lacks subject matter jurisdiction to entertain it. *See, e.g., Gammon v. GC Servs. Letd. P'ship,* 27 F.3d 1254, 1256-57 (7th Cir. 1999) (discussing rule that insubstantial claims do not confer subject matter jurisdiction on courts).

IT IS THEREFORE ORDERED:

The motion to dismiss at Docket No. 46 is GRANTED. It appears that all of the claims in this case have now been resolved and that the Clerk should enter judgment dismissing this case in its entirety. See Fed. R. Civ. P. 54.

Dated at Anchorage, Alaska, this 18 day of May 2004.

/s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge

A03-0251—CV (JKS) 5-19-04
/s/ BB ----------
M. MCLAUGHLIN (GUESS)
S. COLLIER

**Constitution - Article I**
**Section 8**. The Congress shall have Power ...
**Clause 4**, To establish a uniform Rule of Naturalization, . . .

**Constitution - Article II**
**Section 2**. The President ...
**Clause 2**, He . . . shall appoint . . . Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

**Constitution - Article III**
**Section 1**. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. ...
**Section 2**, Clause 1, The judicial Power shall extend to all cases, in Law and Equity, arising under this Constitution, the Laws of the United States, ...

**Constitution - Article IV**
**Section 2**. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

**26 CFR 601.201**
**Rulings and determinations letters.**

(a) General practice and definitions. (1) It is the practice of the Internal Revenue Service to answer inquiries of individuals and organizations, whenever appropriate in the interest of sound tax administration, as to their status for tax purposes and as to the tax effects of their acts or transactions. One of the functions of the National Office of the Internal Revenue Service is to issue rulings in such matters. If a taxpayer's request for a ruling concerns an action that may have an impact on the environment, compliance by the Service with the requirements of the National Environmental Policy Act of 1969 (Pub.L. 91-190) may result in delaying issuing the ruling. Accordingly, taxpayers requesting rulings should take this factor into account. District directors apply the statutes, regulations, Revenue Rulings, and other precedents published in the Internal Revenue Bulletin in the determination of tax liability, the collection of taxes, and the issuance of determination letters in answer to taxpayers' inquiries or requests. For purposes of this section any reference to district director or district office also includes, where appropriate, the Office of the Director, Office of International Operations.

(2) A ruling is a written statement issued to a taxpayer or his authorized representative by the National Office which interprets and applies the tax laws to a specific set of facts. Rulings are issued only by the National Office. The issuance of rulings is under the general supervision of the Assistant Commissioner (Technical) and has been largely redelegated to the Director, Corporation Tax Division and Director, Individual Tax Division.

(3) A determination letter is a written statement issued by a district director in response to a written inquiry by an individual or an organization that applies to the particular

facts involved, the principles and precedents previously announced by the National Office. A determination letter is issued only where a determination can be made on the basis of clearly established rules as set forth in the statute, Treasury decision, or regulation, or by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. Where such a determination cannot be made, such as where the question presented involves a novel issue or the matter is excluded from the jurisdiction of a district director by the provisions of paragraph (c) of this section, a determination letter will not be issued.

Excerpt of Verified Affidavit
filed with Original Complaint

STATE OF ALASKA )
The United States of America )

I, the man "Stephen Carroll Collier" does hereby swear (or affirm) under the penalties that the foregoing facts and the following facts are true and correct.

1. My true name is "Stephen Carroll Collier."
   a. I am a citizen of the United States of America, American citizen and Natural Born Native of the foreign state of California domiciled in the territorial boundaries of Alaska.

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   d. Pruett, Tam, Williamson and Meredith have never provided the Plaintiff with any documents and evidence of the determination that I am a "taxpayer" and of the "legal relations" between myself and the government of the United States as determined by the Secretary or his delegate.
   e. GCI and/or WFB has never provided me any evidence of the determination that I am a "taxpayer" and of the "legal relations" between myself and the government of the United States.

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   l. I have constitutionally secured rights and I am not waiving any of my constitutionally secured rights, or even legal rights (statutory).

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My Hand,

/s/ Stephen Collier

Sworn and subscribed before me a Notary Public.
My commission expires on 4/12/07.

Date 10/24/03 /s/ Carrie J. Patrick
Notary Public Signature

OFFICIAL SEAL
STATE OF ALASKA
NOTARY PUBLIC
CARRIE J. PATRICK
My commission expires: 4/12/07

THE UNITED STATES OF AMERICA

No.

**CERTIFICATE OF NATURALIZATION**

Petition No. ___

***ORIGINAL***

Personal description of holder as of date of naturalization: Date of birth ___; sex ___; complexion ___; color of eyes ___; color of hair ___; height ___ feet ___ inches ___; weight ___ pounds; visible distinctive marks ___; Marital status ___; Country of former nationality ___.

I certify that the description above given is true, and that the photograph affixed hereto is a likeness of me.

_____

(Complete and true signature of holder)

_____ ss:

_____

Be it known that at a term of the _____ Court of _____ held pursuant to law at _____ on _____ the Court having found that _____ then residing at _____ intends to reside permanently in the United States (when so required by the Naturalization Laws of the United States), had in all other respects complied with the applicable provisions of such naturalization laws, and was entitled to be admitted to citizenship thereupon ordered that such person be and (s)he was admitted as a citizen of the United States of America.

In testimony whereof the seal of the court is hereunto affixed this ___ day of ___ in the year of our Lord nineteen hundred and ___.

_____

Clerk of the ___ Court.

By _____ Deputy Clerk.

IT IS A VIOLATION OF THE U.S. CODE (AND PUNISHABLE AS SUCH) TO COPY, PRINT, PHOTOGRAPH, OR OTHERWISE ILLEGALLY USE THIS CERTIFICATE.

DEPARTMENT OF JUSTICE

CHAP. XXXVI – An Act for the relief and protection of American Seamen.

SECTION 1: *Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,* That the President of the United States, by and with the advice and consent of the Senate, be, and herby is authorized to appoint two or more agents; the one of whom shall reside in the kingdom of Great Britain, and the others at such foreign ports, as the President of the United States shall direct. That the duty of the said agents shall be, under the direction of the President of the United States, to inquire into the situation of such American citizens or others, sailing, conformably to the law of nations, under the protection of the American flag, as have been, or may hereafter be impressed or detained by any foreign power, to endeavour, by all legal means, to obtain the release of such American citizens or others, as aforesaid; and to render an account of all impressments and detentions whatever, from American vessels, to the executive of the United States.

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SEC. 4. *And be it further enacted,* That the collector of every district shall keep a book or books, in which, at the request of any seaman, being a citizen of the United States of America, and producing proof of his citizenship, authenticated in the manner hereinafter directed, he shall enter the name of such seaman, and shall deliver to him a certificate, in the following form; that is to say: "I, A.B., collector of the district of D., do hereby certify, that the said E.F., an American seaman, aged years, or thereabouts, of the height of feet inches, [describing the said seaman as particularly as may be] has, this day, produced to me proof in the manner directed in the act, intituled "An act for the relief and protection of American seamen;" and, pursuant to the said act, I do hereby certify, that the said E.F. is a citizen of

the United States of America: In witness whereof, I have hereunto set my hand and seal of office, this day of ." And it shall be the duty of the collectors aforesaid, to file and preserve the profits of citizenship produced, as aforesaid: And for each certificate delivered, as aforesaid, the said collectors shall be entitled to receive from the seaman applying for the same, the sum of twenty-five cents.

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APPROVED, May 28, 1796.

United States Senate
SENATE DISBURSING OFFICE
ROOM SH-127, HART BUILDING
WASHINGTON, D.C. 20510-7104

Mr.
Ms.
Mrs.
Miss _____ is hereby appointed

_____ _____
(Title of Position) (Senator, Committee or Office)

S.Res. _____ at $ ___ per annum, effective ___.
(Committee Authority)

//
//

_____
(Senator, Committee Chairman, or Elected Official)

Sec. 331, Title 5, U.S.C.:

Every person appointed to any office of honor or profit shall, before entering upon the duties of such office, and before being entitled to any part of the salary thereof, take and subscribe to the following oath:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

_____
(Signature of employee)

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//
//

(over)

PERSONNEL AFFIDAVIT

|___|___|___|
Social Security Number

I DO SOLEMLY SWEAR (OR AFFIRM) – THAT

1. (a) __ I am a citizen of the United States of America (USA), or
   (b) __ I owe allegiance to the USA (from the country of ___ ), or
   (c) __ I am an alien from Cuba, South Vietnam, Poland, or the Baltic countries lawfully admitted to the USA for permanent residence, or
   (d) __ I am a South Vietnamese, Cambodian, or Laotian refugee paroled in the USA after January 1, 1975, or
   (e) __ I am a citizen of the Republic of the Philippines, Israel, or Ireland, or
   (f) __ I am a national of a country allied with the USA in the current defense effort (from the country of ___).
2. I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.
3. //
   //
   //
7. I am not a relative of my appointing official or a relative of anyone authorized to recommend appointments to my appointing official.

List Prior Legal Names:

_____ >> _____
(Signature of employee)

Subscribed and sworn to before me this __ day of ___, 19__

_____
(Signature) Notary Public

[NOTARY SEAL]

State of _____
My commission expires ___

GPO: 1992 60-648 (m)

STANDARD FORM 51
REVISED SEPTEMBER 1970
U.S. CIVIL SERVICE COMMISSION
F.P.M. CHAPTER 295
61-107

APPOINTMENT AFFIDAVITS

PROCESS REVIEWER — 8/24/81
(Position to which appointed) (Date of appointment)

INTERNAL REVENUE COLLECTION Seattle
(Department or agency) (Bureau or division) (Place of employment)

I, James B. Pruett, do solemnly swear (or affirm) that --

A. OATH OF OFFICE

I will support and defend the constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

C. AFFIDAVIT AS TO PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in

expectation or hope of receiving assistance in securing this appointment.

/s/ James B Pruett
(Signature of appointee)

Subscribed and sworn (or affirmed) before me this 24th day of Aug. A.D. 1981, at Seattle, Washington.

/s/ Evelyn E. De Cerce
(Signature of officer)

Personnel Staffing Spec.
(Title)

Substantive Regulations
for 26 U.S.C. § 861

The substantive regulations for 26 U.S.C. § 861, Income from Sources Within the United States, consist of eleven (11) substantive regulations and six (6) OMB numbers. Additionally, the substantive regulation 1.861-8 is used within six other substantive regulations as listed below:

1. 1.861-2 – Interest (Authority – 26 U.S.C. § 863 – Tax Based Income Relating to Foreign Income); and, OMB # 1545-0089 – U.S. Nonresident Alien Income Tax Return – Form 1040NR.
2. 1.861-3 – Dividends (Authority – 26 U.S.C. § 863 – Tax Based Income Relating to Foreign Income); and, OMB # 1545-0089 – U.S. Nonresident Alien Income Tax Return – Form 1040NR.
3. 1.861-8 – Taxable Income from Sources within the United States and from other sources and activities (Authority – 26 U.S.C. § 882 – Tax on income of Foreign Corporations connected with United States Business); and, OMB # 1545-0126 – U.S. Income Tax of a Foreign Corporation – Form 1120F; and, OMB # 1545-1224 – (1.8661-8(e)(6) & (g)) – No Form No. Available.

The substantive regulation of 1.861-8 is found in the following separate substantive regulations:

A. 1.406-1 – Treatment of certain employees of foreign subsidiaries as employees of the domestic corporation.
B. 1.857-3 – Net income from foreclosure property – Real Estate Investment Trusts and Companies.
C. 1.911-6 – Deductions, etc of citizens or residents of the United States living abroad.

D. 1.994-1 – Domestic International Sales Corporations (DISC).
E. 1.995-6 – Taxable income attributable to military property.
F. 1.1502-42 – Mutual saving Banks, etc.

4. 1.861-9 – Allocation and apportionment of interest expense.
5. 1.861-9T – Allocation and apportionment of interest expense (temporary); and, OMB # 1545-0121 – Foreign Tax Credit – Form 1116; and, OMB # 1545-1072 – No Form No. Available.
6. 1.861-10(e) – Special allocations of interest expense.
7. 1.861-11 – Interest Issues of Affiliated Corporations.
8. 1.861-11T – Interest Issues of Affiliated Corporations (temporary).
9. 1.861-12T – Characterization rules of Certain Assets.
10. 1.861-14 – Special Rules of Affiliated Group of Corporations.
11. 1.861-14T – Special Rules of Affiliated Group of Corporations (temporary).

Additional authorities used for substantive regulations # 4 through # 11 are:

a. 26 U.S.C. § 863(a) – Tax Based Income Relating to Foreign Income; and,
b. 26 U.S.C. § 864(e) – Rules Relating to Foreign Income; and,
c. 26 U.S.C. § 865(i) – Personal Property Sales Relating to Foreign Income; and,
d. 26 U.S.C. § 7701(f) – Definitions – Use of Related Persons or Pass-thru Entities.

Substantive Regulations
for 26 U.S.C. § 3401

The substantive regulations for 26 U.S.C. § 3401, Wages, consist of fourteen (14) substantive regulations and twenty-three (23) OMB number listings with some duplications of OMB numbers or Form numbers.

The substantive regulations in Part 1 for 26 U.S.C. § 3401 with the primary authorities of 26 U.S.C. §§ 1441(c)(4) and 3401(a)(6)are listed below:

1. 1.1441-2 – Income Taxes Withholding of Tax on Nonresident Aliens and Foreign Corporations and Tax-free Covenant Bonds Nonresident Aliens and Foreign Corporations – Amounts subject to withholding; and, OMB # 1545-0795 – Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual – Form 8233.
2. 1.1441-3 – Income Taxes Withholding of Tax on Nonresident Aliens and Foreign Corporations and Tax-free Covenant Bonds Nonresident Aliens and Foreign Corporations – Determination of amounts to be withheld; and, OMB # 1545-0165 – No Form No. Available.
3. 1.1441-4 – Income Taxes Withholding of Tax on Nonresident Aliens and Foreign Corporations and Tax-free Covenant Bonds Nonresident Aliens and Foreign Corporations – Exemptions from withholding for certain effectively connected income and other amounts; and, OMB # 1545-1484 – No Form No. Available, but the OMB number does appear in T.D. 8734 and all four (4)

references to # 1545-1484 are for nonresident alien individuals only.

4. 1.1441-5 – Income Taxes Withholding of Tax on Nonresident Aliens and Foreign Corporations and Tax-free Covenant Bonds Nonresident Aliens and Foreign Corporations – Withholding on payments to partnerships, trusts, and estates; and, contains another authority of 26 U.S.C. § 7701(b)(11); and, OMB # 1545-0096 (Foreign Person's U.S. Source Income Subject to Withholding) – Form 1042-S, Annual Summary and Transmittal of Forms 1042-S and Annual Withholding Tax Return for U.S. Source Income of Foreign Persons – Form 1042-T.

5. 1.1441-6 – Income Taxes Withholding of Tax on Nonresident Aliens and Foreign Corporations and Tax-free Covenant Bonds Nonresident Aliens and Foreign Corporations – Claim of reduced withholding under an income tax treaty; and, OMB # 1545-0055 – No Form No. Available.

6. 1.1441-7 – Income Taxes Withholding of Tax on Nonresident Aliens and Foreign Corporations and Tax-free Covenant Bonds Nonresident Aliens and Foreign Corporations – General provisions relating to withholding agents; and, contains another authority of 26 U.S.C. § 7701(1); and, Authority is 26 U.S.C. §§ 1441(c)(4), 3401(a)(6) and 7701(l); and, OMB # 1545-0795 – Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual – Form 8233.

7. 1.1461-1 – Income Taxes Withholding on Tax on Nonresident Aliens and Foreign

Corporations and Tax-Free Covenant Bonds Application of Withholding Provisions – Payment and returns of tax withheld; and, OMB # 1545-0054 – Ownership Certificate – Bonds before 1934 or Form 1042 (foreign persons) – Form 1000.

8. 1.1461-2 – Income Taxes Withholding on Tax on Nonresident Aliens and Foreign Corporations and Tax-Free Covenant Bonds Application of Withholding Provisions – Payment and returns of tax withheld; and, OMB # 1545-0054 – Ownership Certificate – Bonds before 1934 or Form 1042 (foreign persons).

9. 1.1462-1 – Income Taxes Withholding on Tax on Nonresident Aliens and Foreign Corporations and Tax-Free Covenant Bonds Application of Withholding Provisions – Withheld tax as credit to recipient of income; and, OMB # 1545-0795 – Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual – From 8233.

The substantive regulation in Part 31 for 26 U.S.C. § 3401 with the primary authorities of 26 U.S.C. §§ 1441(c)(4) and 3401(a)(6) is listed below:

1. 31.3401(a)(6)-1 – Employment Taxes and Collection of Income Tax at Source Subpart E – Collection of Income Tax at Source; and, OMB # 1545-0029 – Employer's Quarterly Federal Tax Return American Samoa, Guam, The Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands – Form 941SS; and, OMB # 1545-0029 – Spanish Version – Form 941PR; and, OMB # 1545-

0029– Employer's Quarterly Federal Tax Return – Form 941; and, OMB # 1545-0029 – Schedule B – Form 941; and, OMB # 1545-0029 – Spanish version in Form 943-PR and 943-PR (Schedule B); and, OMB # 1545-0096 – Foreign Person's U.S. Source Income Subject to Withholding – Form 1042-S, (Annual Summary and Transmittal of Forms 1042-S) and Annual Withholding Tax Return for U.S. Source Income of Foreign Persons – Form 1042-T; and, OMB # 1545-0795 – Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual – Form 8233; and, OMB # 1545-1484 – No Form No. Available, but in T.D. 8734 all four (4) references to # 1545-1484 are for nonresident alien individuals only.

The substantive regulations in Part 31 for 26 U.S.C. § 3401 with the authority of 26 U.S.C. § 62 - Adjusted gross income defined, are listed below:

1. 31.3401(a)-1 – Employment Taxes and Collection of Income Tax at Source, Subpart E – Collection of Income Tax at Source – Wages. 26 CFR § 31.3401(a)-1 is specifically only concerning "wages" with exceptions under § 3401(a) and § 3402(e), to which all of the substantive regulations of § 3401 on "wages" are contained in § 1.1441-2, § 1.1441-3, § 1.1441-4, § 1.1441-5; and, OMB # 1545-0029 – Employer's Quarterly Federal Tax Return American Samoa, Guam, The Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. –

Form 941SS; and, OMB # 1545-0029– Spanish Version – Form 941PR; and, OMB # 1545-0029– Employer's Quarterly Federal Tax Return – Form 941; and, OMB #1545-0029 – Schedule B – Form 941; and, OMB #1545-0029 – Spanish version in Form 943-PR and 943-PR (Schedule B).

2. 31.3401(a)-4 – Employment Taxes and Collection of Income Tax at Source Subpart E – Collection of Income Tax at Source. 26 CFR § 31.3401(a)-4 is specifically only concerning "wages", to which all of the substantive regulations of § 3401 on "wages" are contained in § 1.1441-2, § 1.1441-3, § 1.1441-4, § 1.1441-5.

The substantive regulations in Part 31 for 26 U.S.C. § 3401 with the primary authority of 26 U.S.C. § 911 - Citizens or residents of the United States living abroad, are listed below:

1. 31.3401(a)(8)(A)-1 – Employment Taxes and Collection of Income Tax At Source, Subpart E – Collection of Income Tax At Source – Remuneration for services performed ***outside the United States*** by citizens of the United States; and, OMB # 1545-0029 – same as in regulation 26 CFR 31.3401(a)-1 *supra.*; and, OMB # 1545-0666 – exemptions of Foreign Earned Income preformed outside of the United States.
2. 31.3401(a)(19)-1 – Employment Taxes and Collection of Income Tax At Source, Subpart E – Collection of Income Tax At Source – Reimbursements under a self-insured medical reimbursement plan. An exclusion

from wages, to which all of the substantive regulations of § 3401 on "wages" are contained in § 1.1441-2, § 1.1441-3, § 1.1441-4, § 1.1441-5.

There are no Part 20 substantive regulations for 26 U.S.C. § 3401.

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A New English Dictionary
On Historical Principles

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Poy-Ry

**Proper** : I. 2. b. *Gram.* Applies to a name or noun which is used to designate a particular individual object (e.g. a person, a tame animal, a star, planet, country, town, river, house, ship, etc.). Opposed to COMMON *a.* 17a.

A proper name is written with an initial capital letter. The same proper name may be borne by many persons in different families or generations, or by several places in different countries or localities; but it does not connote any qualities common to and distinctive of the persons or things which it denotes. A proper name may however receive a connotation from the qualities of an individual so named, and be used as a common noun, as a Hercules, a Caesar (Kaiser, Czar), a Calvary, an atlas.